

April 23, 1997

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of)

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Usage of the Public Switched)

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Network by Information Service and Internet)

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Access Providers)

)

CC Docket No. 96-263

REPLY COMMENTS

BellSouth Corporation and BellSouth Telecommunications, Inc. ("BellSouth") hereby submit their Reply Comments to the comments filed in response to the Commission's Notice of Inquiry ("NOI") concerning the actions the Commission should take regarding information services and Internet providers interstate use of the public switched network.¹

The core issue confronted in the Commission's NOI is the identification of the steps the Commission should take that would encourage and facilitate the development of high speed voice and data telecommunications networks. A fundamental concern expressed by the Commission and echoed by many parties in their comments is that the actions ultimately taken must be constructed so as not to chill the development of Internet and other information services that use the telecommunications network.

¹ *In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, Usage of the Public Switched Network by Information Service and Internet Access Providers*, CC Docket No. 96-262, CC Docket No. 94-1, CC Docket No. 91-213, CC Docket No. 96-263, FCC 94-488, Notice of Proposed Rulemaking, Third Report and Order and Notice of Inquiry, released December 24, 1996 (hereinafter "NOI").

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BellSouth shares the Commission's objective and vision of a state of the art, high speed voice and data telecommunications network that can support and foster the growth of new and innovative information applications. To achieve the objective, however, will require a commitment to a new regulatory framework that will create an environment which will encourage investment and innovation.

As BellSouth pointed out in its Comments, the question is not merely whether or not access charges, as presently constructed, should apply. A far greater range of policies are implicated. In its Comments, BellSouth has presented an approach that, if implemented, would alleviate the congestion on the public switched voice network through the creation of a high speed switched data transport service based on a network access server. This network-based solution would provide Internet and other information service providers a means of access to their subscribers that would have the same ubiquity they currently obtain from the public switched voice network.

There are, nevertheless, regulatory hurdles to be overcome before such a network-based solution can be implemented. The network architecture would involve protocol conversion. The Commission's current rules regarding the manner in which local exchange carriers such as BellSouth may provide protocol conversion effectively insure that the arrangement would be unacceptable in the marketplace because the complexity and cost of the arrangement would be increased. Thus, the Commission should address eliminating the regulatory barriers that inhibit the successful introduction of arrangements such as that suggested by BellSouth.

Regardless of whether one supports BellSouth's proposal, it is readily apparent that the time has come for the Commission to act and establish an interstate solution to an interstate

problem. Under the current rules, enhanced service providers (“ESPs”) are exempt from paying interstate access charges for the use that they make of exchange access facilities to originate and terminate interstate traffic. While the exemption allows ESPs to use local exchange services to originate and terminate interstate traffic, the exemption is a “rate” exemption; the exemption does not, nor could it change the underlying jurisdiction of the traffic.²

Nevertheless, it now appears that the interstate access charge exemption is being misconstrued. In their joint comments, Bell Atlantic and NYNEX state that some competitive local exchange carriers claim that traffic terminating at an ESP location is subject to reciprocal compensation. Bell Atlantic and NYNEX correctly point out that reciprocal compensation only applies to the transport and termination of local traffic, not interstate interexchange traffic such as the originating and terminating traffic that is subject to the Commission’s interstate access charge exemption. This confusion can and should be corrected by the Commission. A rulemaking proceeding that would establish an interstate access solution would assure similar problems do not arise in the future.

CONCLUSION

Thus, it is clear that the status quo is no longer acceptable. The status quo does not form a solid foundation for the development of innovative advanced information services. The status quo

² The jurisdiction of telecommunications traffic is determined by the nature of the traffic on an end-to-end basis, not the physical location of the facilities used to carry the traffic. *See e.g., National Ass’n of Regulatory Utility Commissioners v. FCC*, 746 F. 2d 1492 (D.C. Cir. 1984). There can be little dispute that the majority of Internet traffic, for example, is jurisdictionally interstate.

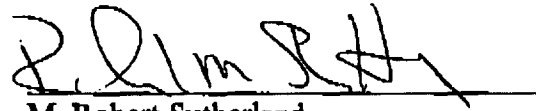
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will not achieve a quality, high speed data and voice network. Public policy demands clear and decisive leadership by the Commission and the first step is for the Commission to begin a rulemaking proceeding.

Respectfully submitted,

**BELLSOUTH CORPORATION
BELLSOUTH TELECOMMUNICATIONS, INC.**

By:

A handwritten signature in dark ink, appearing to be "R. Sutherland" followed by a flourish, is written over a horizontal line.

**M. Robert Sutherland
Richard M. Sbaratta**

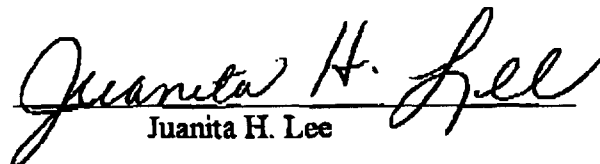
Their Attorneys

**Suite 1700
1155 Peachtree Street, N. E.
Atlanta, Georgia 30309-3610
(404) 249-3386**

Date: April 23, 1997

CERTIFICATE OF SERVICE

I hereby certify that I have this 23rd day of April, 1997 served the following parties to this action with a copy of the foregoing **REPLY COMMENTS** by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed on the attached service list.


Juanita H. Lee

SERVICE LIST CC DOCKET NO. 96-263

Stephen L. Goodman
David E. Colton
Northern Telecom, Inc.
Halprin, Temple, Goodman & Sugrue
1100 New York Avenue, N.W.
Suite 650, East Tower
Washington, D.C. 20005

John G. Lamb, Jr.
Northern Telecom Inc.
2100 Lakeside Boulevard
Richardson, Texas 75081-1599

Marlin D. Ard
Jeffrey B. Thomas
Pacific Telesis Group
140 New Montgomery Street, Rm. 1529
San Francisco, California 94105

Margaret E. Garber
Pacific Telesis Group
1275 Pennsylvania Avenue, N. W.
Washington, DC 20004

Scott J. Rubin, Esq.
Pennsylvania Internet Service Providers
3 Lost Creek Drive
Selinsgrove, PA 17870-9357

Margot Smiley Humphrey
Koteen & Naftalin, LLP
1150 Connecticut Avenue, NW
Suite 100
Washington, DC 20036

David Cosson
L. Marie Guillory
NTCA
2626 Pennsylvania Avenue, N. W.
Washington, DC 20037

Lisa M. Zaina
Kenneth Johnson
OPASTCO
21 Dupont Circle NW
Suite 700
Washington, DC 20036

Diane Iglesias
Southern New England Telephone Company
Assistant Vice President
Regulatory Affairs and Public Policy
227 Church Street
New Haven, CT 06510

David R. Bender, Ph.D., Executive Director
John H. Crosby IV, Director, Government Relations
Special Libraries Association
1700 18th Street, N.W.
Washington, DC 20009-2514

Leon M. Kestenbaum
Jay C Keithley
H. Richard Juhnke
Sprint Corporation
1850 M Street, N. W., 11th Floor
Washington, DC 20036

Durward D. Dupre
Mary W. Marks
Thomas A. Pajda
Southwestern Bell Telephone Company
One Bell Center, Room 3536
St. Louis, Missouri 63101

Randall R. Zach
Senior Financial Consultant
TCA, Inc.-Telecommunications Consultants
3617 Betty Drive, Suite I
Colorado Springs, CO 80917

Teresa Marrero
Teleport Communications Group, Inc.
Senior Regulatory Counsel-Federal
Two Teleport Drive
Staten Island, NY 10311

Linda A. Legier Topp
13806 Farmstead Way
Chester, VA 23831

Charles C. Hunter
Catherine M. Hannan
Telecommunications Resellers Association
Hunter Communications Law Group
1620 I Street, N. W., Suite 701
Washington, DC 20006

Hal R. Varian, Dean
University of California, Berkeley
School of Information Management and Systems
102 South Hall #4600
Berkeley, California 94720-4600

Ramsey L. Woodworth
Robert M. Gurss
Rudolph J. Geist
United States Internet Providers Association
Wilkes, Artis, Hedrick & Lane, Chartered
1666 K Street, N.W., #1100
Washington, DC 20006

Mary McDermott
Linda Kent
Keith Townsend
Hance Haney
United States Telephone Association
1401 H Street, N. W., Suite 600
Washington, DC 20005

Robert B. McKenna
U S West, Inc.
Suite 700
1020 19th Street, N. W.
Washington, DC 20036

Jeffrey L. Sheldon
Thomas E. Goode
UTC
1140 Connecticut Avenue, N.W.
Suite 1140
Washington, DC 20036

Catherine R. Sloan
Richard L. Fruchterman
Richard S. Whitt
WORLDCOM, INC.
Suite 400, 1120 Connecticut Avenue, N.W.
Washington, DC 20036

Charles H. Helein
Robert M. McDowell
America's Carriers
Telecommunication Association
8180 Greensboro Drive, Suite 700
McLean, Virginia 22102

Donna N. Lampert
Christopher J. Harvie
America Online, Inc.
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
701 Pennsylvania Avenue, N. W.
Suite 900
Washington, DC 20004

William W. Burrington
Jill A. Lesser
America Online, Inc.
Suite 400
1101 Connecticut Avenue, N. W.
Washington, DC 20036

David P. McClure
Executive Director
Association of Online Professionals
6096 Franconia Road, Suite D
Alexandria, VA 22310

Dennis C. Hayes
Chairman, AOP Board of Directors
Hayes Microcomputer Products, Inc.
5953 Peachtree Industrial Blvd.
Norcross, GA 30092

Steven P. Klingler
Vice Chairman, AOP Board of Directors
Clark Development Company, Inc.
3950 South 700 East, Suite 303
Murray, UT 84107

Mark C. Rosenblum
Ava B. Kleinman
AT&T Corp.
Room 3252J1
295 North Maple Avenue
Basking Ridge, New Jersey 07920

Lawrence W. Katz
Bell Atlantic Telephone Companies
1320 North Court House Road, 8th Floor
Arlington, Virginia 22201

Joseph Di Bella
NYNEX Telephone Companies
1300 I Street, N. W.
Suite 400 West
Washington, DC 20005

Glenn B. Manishin
Michael D. Specht
CAIS, Inc.
Blumenfeld & Cohen-Technology Law Group
1615 M Street, N. W., Suite 700
Washington, DC 20036

Christopher J. Wilson
Cincinnati Bell Telephone Company
FROST & JACOBS LPL
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202

Thomas E. Taylor
Sr. Vice President-General Counsel
Cincinnati Bell Telephone Company
201 East Fourth Street, 6th Floor
Cincinnati, Ohio 45202

Robert J. Aamoth
Comptel
Kelly Drye & Warren LLP
1200 19th Street, N. W., Suite 500
Washington, DC 20036

Genevieve Morelli
Executive Vice President and
General Counsel
Competitive Telecommunications Association
1900 M Street N.W., Suite 800
Washington, DC 20036

Randolph J. May
CompuServe and Prodigy Service Corporation
Sutherland, Asbill & Brenna
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2404

Randall B. Lowe
John E. Benedict
DSC Communications Corporation
Piper & Marbury, L.L.P.
1200 19th Street, N.W.
Washington, D.C. 20036

Edgewood Senior High School Student Council
Student Council Internet Committee
2428 Blake Road
Ashtabula, Ohio 44004

Kathy L. Snobert
General Communication, Inc.
Director, Federal Affairs
901 15th Street, NW
Suite 900
Washington, D.C. 20005

Jody B. Burton
Assistant General Counsel
Personal Property Division
General Services Administration
18th & F Street, N. W., Room 4002
Washington, DC 20405

R. Michael Senkowski
R. Paul Margie
GTE Service Corporation
Wiley, Rein & Fielding
1776 K Street, N. W.
Washington, DC 20006

Ward W. Wueste
Gail L. Polivy
1850 M Street, N. W.
Suite 1200
Washington, DC 20036

G. Todd Hardy
Robert E. Jones, III
Nathaniel J. Hardy
Hardy & Ellison, P.C.
9306 Old Keene Mill Road
Suite 100
Burke, VA 22015

Jonathan Jacob Nadler
Internet Access Coalition
Squire, Sanders & Dempsey, L.L.P.
1201 Pennsylvania Avenue, NW
Box 407
Washington, DC 20044

Colleen Boothby
Internet Access Coalition
Levine, Blaszak, Block & Boothby
1300 Connecticut Avenue, NW
Suite 500
Washington, DC 20036-1703

Glenn B. Manishin
Christine A. Mailloux
NetAction, UCAN, CPSR
and CTCNet
Blumenfeld & Cohen-Technology
Law Group
1615 M Street, N. W., Suite 700
Washington, DC 20036

Ron Dunn, President
Information Industry Association
1625 Massachusetts Avenue, N. W.
Suite 700
Washington, DC 20036

Joseph S. Paykel
Andrew Jay Schwartzman
Gigi B. Sohn
Media Access Project
1707 L Street, NW
Suite 400
Washington, DC 20036

Daniel J. Weitzner
Center For Democracy and Technology
1634 Eye Street, NW
Suite 1100
Washington, DC 20036

Leslie A. Harris
Leslie Harris & Associates
1146 19th Street, NW
Seventh Floor
Washington, DC 20036

Glenn B. Manishin
Michael D. Specht
Blumenfeld & Cohen-Technology Law Group
1615 M Street, N. W., Suite 700
Washington, DC 20036

Haden E. Rogers
9804 Kernville Drive
Las Vegas, NV 89134

David Landers
4420 Edward Avenue
Las Vegas, Nevada 89108

Sheila Jackson Lee
Member of Congress
Congress of the United States
House of Representatives
Washington, DC 20515

Bradley Stillman
Don Sussman
Alan Buzacott
MCI Communications Corporation
1801 Pennsylvania Avenue, N.W.
Washington, DC 20006

Mary E. Brooner
Motorola, Inc.
Manager, Telecommunications
Strategy and Regulation
Motorola, Inc.
1350 I Street, N.W., Suite 400
Washington, DC 20005

Daniel L. Brenner
David L. Nicoll
National Cable Television Association
1724 Massachusetts Avenue, N. W.
Washington, DC 20036

Gene C. Schaerr
James P. Young
AT&T Corp.
1722 Eye Street N. W.
Washington, DC 20006